

United States Senate

WASHINGTON, DC 20510-2309

March 1, 2017

The Honorable James B. Comey
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535

Dear Director Comey:

I am deeply concerned about reports that citizens who have protested or opposed the Dakota Access Pipeline project are being investigated by officers assigned to the Federal Bureau of Investigation's (FBI) Joint Terrorism Task Force (JTTF). As a member of both the Senate Judiciary Committee and the Committee on Indian Affairs, I have closely monitored interactions between law enforcement and activists seeking to protect sacred tribal lands. In my view, law enforcement officers have an important role to play in protecting not only public safety, but also the ability of citizens to exercise their First Amendment rights. While community members and activists were recently forced to abandon the protest camp at Standing Rock, opposition to the project remains strong. I am concerned that the reported questioning of political activists by one of the FBI's terrorism task forces threatens to chill constitutionally protected conduct and speech.

According to recent reports, JTTF agents have attempted to question at least three individuals associated with protests opposing construction of the Dakota Access Pipeline.¹ JTTF officers are reported to have visited the individuals' residences, without a warrant or a subpoena, and requested voluntary interviews. In each case, the individual declined to cooperate. These reported investigations of political activists follow rising tensions and repeated clashes between police and protestors, including incidents where water cannons were deployed for crowd control in sub-freezing temperatures—a tactic I described as dangerous and excessive.

Make no mistake, where political demonstrations threaten public safety and security, police and federal law enforcement agencies have a duty to protect people and property. But by tasking officers assigned to an FBI terrorism task force with investigating political protestors, I fear that the federal government's posture conflates constitutionally protected conduct with actions that threaten our national security. Joint Terrorism Task Forces, or JTTFs, are inter-agency teams of investigators, SWAT experts, and analysts assigned to investigate acts of terrorism and share intelligence among our law enforcement and national security agencies. The FBI describes JTTFs as "our nation's front line on terrorism" and "one-stop shopping for information regarding terrorist activities."² By assigning JTTF agents and officers to investigate Standing Rock protestors, I am concerned that the FBI has opted to view civil rights activism

¹ Sam Levin, *Revealed: FBI terrorism taskforce investigating Standing Rock activists*, GUARDIAN, Feb. 10, 2017, available at <https://www.theguardian.com/us-news/2017/feb/10/standing-rock-fbi-investigation-dakota-access>.

² Federal Bureau of Investigation, *What We Investigate, Terrorism, Joint Terrorism Task Forces*, <https://www.fbi.gov/investigate/terrorism/joint-terrorism-task-forces>.

through a national security lens. Embracing such tactics risks chilling the exercise of constitutional rights and further undermining trust between federal law enforcement and our tribal nations.

In light of these reports and the concerns they raise for many Americans, including those in Indian Country, I respectfully request that, no later than Monday, April 20, 2017, you provide my office with more detailed information about the scope of the investigation into individuals who oppose the construction of the Dakota Access Pipeline, including the FBI's justification for tasking such an investigation to officers assigned to the JTTF. Please also describe what actions, if any, the FBI is taking to ensure that such investigations do not interfere with or chill constitutionally protected conduct, such as political and religious activity.

Thank you for your prompt attention to this important matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Al Franken", with a long horizontal flourish extending to the right.

Al Franken
United States Senator